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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,572	12/19/2001	Maurice Gagne	P 284137 RP-00268-US2	9263

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EXAMINER

COLETTA, LORI L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 12/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/021,572	GAGNE, MAURICE	
	Examiner Lori L. Coletta	Art Unit 3612	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status <p>1) <input checked="" type="checkbox"/> -Responsive to communication(s) filed on <u>28 October 2002</u>.</p> <p>2a) <input checked="" type="checkbox"/> This action is FINAL. 2b) <input type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>			
Disposition of Claims <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-3,6-17 and 20-36</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1-3,6-17 and 20-36</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>			
Application Papers <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11) <input checked="" type="checkbox"/> The proposed drawing correction filed on <u>15 November 2002</u> is: a) <input checked="" type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner.</p> <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
Priority under 35 U.S.C. §§ 119 and 120 <p>13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:</p> <p>1. <input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input checked="" type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
Attachment(s) <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____</p> <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p>			

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3, 6-17 and 20-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, “wherein said inoperative position includes a forward position toward a front side of said windshield panel and a rearward position toward a rear side of said windshield panel” is not clear. What is meant by “a front side of said windshield panel” and “a rear side of side windshield panel?” Applicant needs to relate the forward position to the front bumper and the rearward position to the seat. *See same deficiency in claim 15.*

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6, 15, 16, 20, 30 and 31, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Sarra 3,622,196.

Regarding claim 1, Sarra '196 discloses a windshield assembly (25) comprising a windshield panel (26) movable between an operative position and an inoperative position; and a coupling assembly coupled to said windshield panel, said coupling assembly including at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein the inoperative includes a rearward position toward a rear side of said windshield panel in Figure 1.

Regarding claims 2 and 16, Sarra '196 discloses the windshield assembly (25), wherein said coupling assembly includes a first end (38 and 39) defining a mounting bracket and a second end (42 and 43) defining a pivot point about which the windshield panel (26) pivots in Figures 1 and 2.

Regarding claims 6 and 20, Sarra '196 discloses the windshield assembly (25). It would be inherent that the windshield panel (26) is made of polycarbonate plastic.

Regarding claim 15, Sarra '196 discloses a vehicle (10) comprising a frame (11); at least one ground contacting element (14) suspended from the frame to provide an interface between the frame and the ground; a handlebar (24) operatively connected to the ground contacting element to steer the vehicle; a seat (20) positioned on the frame; and a windshield assembly (25) mounted on the frame and including a windshield panel (26) moveable between an operative position and an inoperative position, and a coupling assembly between the handlebar and the windshield panel, said coupling assembly including at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein said inoperative position includes a rearward position toward a rear side of said windshield panel in Figures 1 and 2.

Regarding claim 30, Sarra '196 discloses the vehicle (10), wherein said ground contacting element (14) includes a pair of front skies and a drive belt and said vehicle is a snowmobile in Figure 1.

Regarding claim 31, Sarra '196 discloses the vehicle (10). It would be inherent that at least a portion of the windshield panel (26) is transparent in Figure 1.

5. Claims 15 and 29, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Clardy, Jr. 5,961,175.

6. Regarding claim 15, Clardy, Jr. '175 discloses a vehicle (23) comprising a frame; at least one ground contacting element suspended from the frame to provide an interface between the frame and the ground; a handlebar operatively connected to the ground contacting element to steer the vehicle; a seat positioned on the frame; and a windshield assembly mounted on the frame and including a windshield panel moveable between an operative position and an inoperative position, and a coupling assembly (73) between the handlebar and the windshield panel, said coupling assembly including at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein said inoperative position includes a rearward position toward a rear side of said windshield panel in Figures 1 and 2.

Regarding claim 29, Clardy, Jr. '175 discloses the vehicle (23), wherein said ground contacting element includes a pair of front wheels and a pair of rear wheels suspended from the frame and the vehicle is an all terrain vehicle.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaffin 6,402,228 in view of Sarra 3,622,196.

Regarding claims 32 and 34, Chaffin '228 discloses a method for transporting a vehicle (snowmobile 112), the vehicle comprising a windshield assembly mounted on a frame of said vehicle and including a windshield panel, the method comprising loading the vehicle on a trailer (110) in Figure 1.

However, Chaffin '228 does not show pivoting the windshield panel from an operative position into an inoperative position toward a rear side of said windshield panel; and transporting said vehicle such that wind pressure on the windshield panel is substantially reduced.

Sarra '196 teaches pivoting the windshield panel (25) from an operative position into an inoperative position toward a rear side of said windshield panel and transporting the vehicle such that wind pressure on the windshield panel is substantially reduced. in Figure 1.

Regarding claim 32, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the vehicle of Chaffin '228 with a windshield assembly pivoting from an operative position into an inoperative position toward a rear side of the windshield panel, as taught by Sarra '196, in order to substantially reduce wind resistance.

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chaffin 6,402,228 as applied to claim 32 above, and further in view of Huston 5,816,757.

Regarding claim 33, Chaffin '228, as modified, discloses a method for transporting a vehicle but does not show wherein said vehicle is an all terrain vehicle.

~~Huston '757 teaches an all terrain vehicle (18) loaded on a trailer (12) in Figure 1.~~

Regarding claim 33, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the vehicle of Chaffin '228, as modified, as an all terrain vehicle, as taught by Huston '757, as a matter of mechanical expedient.

10. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clardy, Jr. 5,961,175 in view of Sarra 3,622,196

Regarding claim 35, Clardy '175 discloses an all-terrain vehicle comprising a frame; a pair of front wheels and a pair of rear wheels suspended from the frame; an engine operatively coupled to provide motive force to at least one pair of front and rear wheels and selectively operable to provide motive force to both the front and rear pairs of wheels; a handlebar operatively connected to the front pair of wheels to steer the vehicle; a straddle-type seat positioned on the frame; a pair of footrests, one on each lateral side of the straddle-type seat; and a windshield assembly (25) mounted on the frame including a windshield panel (26) movable between an operative position and an inoperative position, and a coupling assembly (73) between the handlebars and the windshield panel, said coupling assembly including at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position in Figures 1 and 2.

However, Clardy '175 does not show wherein said inoperative position includes a rearward position toward a rear side of said windshield panel adjacent the straddle-type seat such that wind pressure on said windshield panel is substantially reduced during transport of the vehicle.

Sarra '196 teaches a windshield assembly (25) mounted on the frame including a windshield panel (25) movable between an operative position and an inoperative position, and a coupling assembly between the handlebars (24) and the windshield panel, said coupling assembly including at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein said inoperative position includes a rearward position toward a rear side of said windshield panel adjacent the seat (20) such that wind pressure on said windshield panel is substantially reduced during transport of the vehicle (10).

Regarding claim 35, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the all-terrain vehicle of Clardy, Jr '175 with a windshield assembly pivoting from an operative position into an inoperative position toward a rear side of the windshield panel adjacent the seat, as taught by Sarra '196, in order to substantially reduce wind resistance.

Regarding claim 36, Clardy, Jr. '175, as modified, discloses an all-terrain vehicle, wherein a width between the front pair of wheels is greater than a width of the handlebars.

Allowable Subject Matter

11. Claims 3, 7-14, 17 and 21-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to claims 1-3, 6-17 and 20-36 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is (703) 306-4614. The examiner can normally be reached on Monday-Friday 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1134.

Lori L. Coletta
Examiner
Art Unit 3612

llc
llc
December 4, 2002



12/4/02

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3300